

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

COMPANY PETITION No 131 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MODERN ENGINEERING INDUSTRIES

Versus

ASHOK TIGERLATHER PVT.LTD.

Appearance:

MR AJAY R MEHTA for Petitioner

MS PAURAMI B SHETH for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 12/12/96

ORAL JUDGEMENT

With consent of the learned advocates, the matter is finally heard today.

This petition has been filed by M/s Modern Engineering Industries under provisions of Section 439 of the Companies Act, with a prayer that M/s Ashok Tiger Lathes Pvt. Ltd. (hereinafter referred to as "the Company") be wound up as the Company is unable to pay its

debts.

Learned Advocate Mr Ajay Mehta appearing for the petitioner has submitted that the petitioner had supplied metal components worth Rs.19,967/-. As the Company did not pay the price, the petitioner had requested the Company on several occasions to repay its dues. As the amount was not paid, the petitioner was constrained to send a statutory notice through advocate Mr Mehta. The said notice was duly served upon the Company but as inspite of service of statutory notice, no amount was paid by the Company, the petitioner was constrained to file this petition.

This petition was admitted on 11th September, 1996. Necessary advertisements were also published in daily newspapers viz. Indian Express and Jansatta and an advertisement was also given in the Government gazette. In pursuance of the advertisements, no one has come forward either to support or oppose this petition.

No reply has been filed to oppose the petition or to controvert the statements made in the petition and, therefore, it is presumed that the facts stated in the petition are correct. Even after admission of the petition, the amount to be paid by the Company has not been paid to the petitioner and, therefore, one can very well presume that the Company is unable to pay its debts. Therefore, it would be just and proper to wind up the Company. In the circumstances, the Company is ordered to be wound up. The Official Liquidator attached to this Court is directed to initiate winding up proceedings and he is empowered to take action under provisions of Section 457 of the Companies Act.

The petitioner is also directed to deposit a sum of Rs.5,000/- (Rupees Five thousand only) with the Official Liquidator so as to enable him to incur necessary expenditure. The petition is allowed.
